

From: [Berkoff, Michael](#)
To: [Carlson, Janet](#)
Cc: [Frey, Rebecca](#); [Wood, Nicole](#); [Furey, Eileen](#); [Saric, James](#)
Subject: Re: OU1 question about state cost share - answer - confidential
Date: Monday, February 11, 2013 8:52:31 AM

Thank you guys. I will pass along this information to the state.

Michael Berkoff

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From: Janet Carlson/R5/USEPA/US

To: REBECCA FREY/R5/USEPA/US@EPA,

Cc: Michael Berkoff/R5/USEPA/US@EPA, Nicole Wood/R5/USEPA/US@EPA, Eileen Furey/R5/USEPA/US@EPA, JAMES SARIC/R5/USEPA/US@EPA

Date: 02/08/2013 02:43 PM

Subject: Re: OU1 question about state cost share - answer - confidential

Becky and Michael

Thanks -- I agree with you -- 10% share is not needed if bankruptcy fund covers the cost.

Even if we stay under the bankruptcy fund amount --- the state should plan on signing an SSC to obtain the necessary state assurances regarding O & M, acceptance of the remedial action ...etc. If we go over the bankruptcy fund amount --- the SSC could be amended to include the 10% cost share amount over the fund.

As you note --- we usually require the PRPs to agree to O & M as part of the Consent Decree settlement. One of the enforcement options at OU 1 may be to offer the remaining PRP (IP) the ability to do a portion of the work. If we agree to a work carve out with IP --- O & M may not be covered by the Consent Decree and we would be looking to the State to do O & M -- even with a PRP agreement. .Nicole said that there have been internal discussions on thisand we will have further discussions.

For now --- I think you can tell the state that a 10% share is not needed if the bankruptcy fund covers the cost. We should note that we anticipate needing assurances from the State that it will implement O & M under an SSC. If EPA spends more than what we have in the bankruptcy fund --- than we will need a 10% cost share for the balance.

Thanks

Jan

Jan Carlson

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Date: 02/08/2013 12:53 PM

Subject: Re: OU1 question about state cost share - answer

Michael,

You are correct. Just to make sure, I took a few minutes to check with some other folks to see what we've done at other sites that used bankruptcy money to carry out a remedial action. As I suspected, they told me that bankruptcy settlement money is considered the same as PRP money, so we would not need the state to chip in any state cost share. If we conduct the remedial action (and don't get a PRP to do the work), then the state would need to do the O&M work. If a PRP is doing the work, then there is no state cost share and no state-financed O&M.

- Becky

From: Nicole Wood/R5/USEPA/US

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Cc: JAMES SARIC/R5/USEPA/US@EPA, Janet Carlson/R5/USEPA/US@EPA, REBECCA FREY/R5/USEPA/US@EPA

Date: 02/07/2013 04:01 PM

Subject: Re: Fw: OU1

Michael,

I don't have the time to answer your questions. I am tied up on other matters. Can I get back to you in a few weeks?

Nicole

Nicole Wood-Chi

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From: Michael Berkoff/R5/USEPA/US

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Cc: JAMES SARIC/R5/USEPA/US@EPA, REBECCA FREY/R5/USEPA/US@EPA

Date: 02/07/2013 03:38 PM

Subject: Fw: OU1

Nicole,

Correct me if I am wrong, but provided that the cost of the remedy can be covered by the money in the trust, MDEQ will not be contributing a 10% cost share. They will be covering O&M with the money they received in the bankruptcy. If a PRP is doing the work, then this does not apply. Do I have this right? What would you recommend that I say to Paul?

FYI, we are projecting an RA start date in 2015.

Michael

Michael Berkoff

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----- Forwarded by Michael Berkoff/R5/USEPA/US on 02/07/2013 02:41 PM -----

From: "Bucholtz, Paul (DEQ)" <BUCHOLTZP@michigan.gov>

To: Michael Berkoff/R5/USEPA/US@EPA,

Date: 02/07/2013 01:17 PM

Subject: OU1

Michael,

When EPA implements the RA at OU1, will they require a SOM 10% cost share? Or will this be fully paid for from settlement dollars.

If yes, what is your projected date for RA implementation so we can get the money in the pipe?

Paul Bucholtz

MDEQ-RRD Superfund Section

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